

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALESSANDRO MASI and CHIARA GOIA,

Plaintiffs,

- against -

TURTLEBACK BOOKS, INC.

Defendant.

Docket No. 1:17-cv-9044

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Alessandro Masi (“Masi”) and Chiara Goia (“Goia” and together with Masi “Plaintiffs”) by and through their undersigned counsel, as and for their Complaint against Defendant Turtleback Books, Inc. (“Turtleback” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of an award winning photograph of Poonam Sachin, owned and registered by Masi, a London based professional photojournalist and a photograph of two children in Mumbai, owned and registered by Goia, an Italy based professional photojournalist. Accordingly, Plaintiffs seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Masi is an award-winning professional documentary photojournalist in the business of licensing his photographs for a fee, having a usual place of business at 6 Balmoral Road, London, NW25DY, United Kingdom. Masi is deeply committed to spreading awareness and supporting action towards children's rights and education. Masi won the Premio Anima 2015 Soul Prize for Photography in Italy. His images are exhibited as part of the UNICEF Germany collaboration with the Arp Museum Bahnhof Rolandseck in Germany.

6. Goia is an award winning professional documentary and fine art photographer in the business of licensing her photographs in the business of licensing her photographs for a fee having a usual place of business at Via Lomazzo 55, Milan Italy 20154. Goia is the winner of the Song World Photography Award in Arts and Entertainment, the Canon prize for emerging photographers and was named as PDN's 30.

7. Upon information and belief, Turtleback is a for profit corporation duly organized and existing under the laws of the State of Missouri, with a place of business at 5111 Southwest Avenue, St. Louis Missouri 63110. At all times material hereto, Turtleback has created the prebound book *Behind the Beautiful Forevers: Life, Death, and Hope in a Mumbai Undercity* (the "Book").

STATEMENT OF FACTS

A. Background and Plaintiffs Ownership of the Photographs

8. In 2009, Masi traveled to the city of Bhpoal, India to document the severe illnesses faced by children as a result of poisonous drinking water contaminated by the waste of Union Carbide, left behind after the 1984 Gas Tragedy. On or about August 25, 2009, during a heavy rain storm, Masi photographed Poonam Sachin, who was six years old (the “Masi Photograph”). Poonam was born with six toes on her left foot. The Photograph won second place in the Photograph Giving Back Photo Award. As a result, Poonam and her family received \$5,000. A true and correct copy of the Masi Photograph are attached hereto as Exhibit A.

9. In 2009, Goia traveled the India to photograph two children in Mumbai (the “Goia Photograph”). A true and correct copy of the Goia Photograph is attached hereto as Exhibit B.

10. Masi is the author of the Masi Photograph and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

11. Goia is the author of the Goia Photograph and and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

12. The Masi Photograph was registered with the United States Copyright Office and was given registration number VA 1-925-877.

13. The Goia Photograph was registered with the United States Copyright Office and was given registration number VA 2-046-747.

14. The Masi and Goia Photographs together (the “Photographs”).

B. Defendant Infringing Activities

15. Upon information and belief, Defendant created the prebound book *Behind the Beautiful Forevers: Life, Death, and Hope in a Mumbai Undercity*. See Exhibit C.

16. The front cover of the Book prominently featured the Photographs.

17. Defendant did not license the Photographs from Plaintiffs for its Book nor did Defendant have Plaintiff's permission or consent to publish the Photographs on its Book.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST TURTLEBACK)
(17 U.S.C. §§ 106, 501)

18. Plaintiffs incorporates by reference each and every allegation contained in Paragraphs 1-17 above.

19. Defendant infringed Plaintiffs copyright in the Photographs by reproducing and publicly displaying the Photographs on the Book. Defendant is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs.

20. The acts of Defendant complained of herein constitute infringement of Plaintiffs copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

21. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiffs rights.

22. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

23. Alternatively, Plaintiffs are entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photographs, pursuant to 17 U.S.C. § 504(c).

24. Plaintiffs further is entitled to their attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant be adjudged to have infringed upon Plaintiffs copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiffs be awarded either: a) Plaintiffs actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiffs Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiffs be awarded their costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiffs be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
November 20, 2017

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